Government of the District of Columbia

Department of Insurance, Securities and Banking

HEARING

On

BILL 21-032, the "SPECIALTY DRUG COPAYMENT LIMITATION ACT OF 2015"

Before the

COMMITTEE ON BUSINESS, CONSUMER AND REGULATORY AFFAIRS

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Testimony of

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Good afternoon Chairman Orange, Members of the Committee on Business, Consumer, and Regulatory Affairs, and Committee staff. I am Stephen Taylor, the Acting Commissioner of the Department of Insurance, Securities and Banking ("Department"). The Department regulates insurance, securities, banking and other financial services in the District of Columbia. I appreciate the opportunity to testify today on Bill 21-032, the "Specialty Drug Copayment Limitation Act of 2015" ("Bill").

As the Committee may know, the Department has had a significant role in the District's implementation of federal health care reform, the Patient Protection and Affordable Care Act of 2010 ("ACA"). Notably, the Department approves health insurance plan rates and forms, and assists the District of Columbia Health Benefit Exchange Authority for the benefit of health insurance consumers. Just last month, the Department approved the rates and forms for the 2016 health plans to be sold on the District of Columbia Health Benefit Exchange ("Exchange"). As a result, District consumers will have a variety of plans with numerous options, including a variety of prescription drug benefits, deductibles and co-pays. Consumers and interested stakeholders can view that rate information on our website.

Notwithstanding, the great choices for consumers, high and rising prescription drug costs in general, and specialty drugs in particular, continue to limit access to important medications that improve quality of life or even save lives. Ensuring affordable specialty drugs is a challenge nationally, and there has yet to be legislation enacted in other states to fully address this problem. However, at least nine states have enacted various laws to mitigate the impact of high cost prescription drug and associated co-insurance. Some states have passed laws with provisions

similar to those in the Bill, while others have enacted laws to improve access and affordability of drugs on specialty tiers. One state has prohibited the specialty tiers. A number of other states have introduced similar legislation.

Nationally, the ACA offered new consumer protections by establishing a Maximum Out-of-Pocket dollar amount an enrollee in an ACA-compliant plan might have to pay in a given year. As a result, some plans sold on the Exchange have similar limits on co-insurance to those in the Bill. Nevertheless, prescription drug prices continue to be a substantial cost and barrier for consumers. Therefore, it is important for the District, like other states, to make sure important specialty drugs are affordable for, and available to, those who need it.

While the Department regulates insurance coverage by licensing companies and enforcing consumer protections, the Department cannot regulate the cost of products sold by pharmaceutical manufacturers. Within the limits of the Department's authority, however, the District of Columbia has been able to ensure that a variety of health plans are offered for sale to District health care insurance consumers. Additionally, some of the consumer protections in the Bill will ensure that consumers who need specialty drugs will have adequate access to them.

The Bill would require health benefit plans that cover prescription drugs and use a specialty drug tier to limit the copayment or coinsurance applicable to those specialty drugs to $150 per drug per month. The Bill also would prohibit the practice of placing all drugs in a given class onto a specialty drug tier, such as placing all medications for the treatment of HIV in the highest cost-sharing tier dedicated for complex medical conditions. Finally, the Bill allows a

health plan member to request that a non-preferred drug be covered under the cost-sharing applicable for preferred drugs in certain circumstances, and gives the member the right to appeal a denial of the request, pursuant to the health plan's internal review process.

The Department generally supports the co-insurance limits in the Bill, which should have a positive impact on the affordability of specialty drugs for consumers. Of course, there will be some increase in the cost of health care insurance premiums since the cost of specialty drugs will be spread among all members of a health plan. This will occur because the Bill does not actually impact the cost of specialty drugs health plans will be required to pay.

The Department, at this time, does not support the provisions in Section 3(b) of the Bill. That section would give health plan members the right to request preferred drug cost-sharing for non-preferred drugs. We are unsure of the impact of those provisions and believe they may be difficult to implement. Additionally, the provision appears to go beyond specialty drugs. Thus, we recommend further study of Section 3(b).

If the Committee determines to move forward with the Bill, the Department has a number of recommended changes to the Bill, in addition to deleting Section 3(b). First, the Bill should include a provision to accommodate plans that offer a discount for accessing a 90-day supply of a medication rather than a 30-day supply, which is the standard used in the Bill.

Second, the copay limit should be applied to prescription drugs meeting the definition of "specialty drug" rather than to those drugs on a specialty drug tier. This would prevent downgrading prescriptions to a lower tier where a higher copay could be charged.

Third, the Bill should provide additional clarification of the term "retail pharmacies."

Fourth, the provisions in the Bill should become applicable for health plans purchased, renewed, or issued on or after January 1, 2017. As qualified health plans and many other health insurance plans begin on January 1 of each year, this time would provide an adequate transition period for insurers to conform their plan designs and related policy documents at the start of the plan year rather than mid-year.

In closing, the Bill offers new consumer protections and financial security measures for consumers. However, the Bill does not address the issue of the cost of specialty drugs. As a result, the protections in the Bill could lead to higher insurance costs to all policyholders given the high prices of many specialty drugs. Thus, there may be some utility in studying the possible impact on the District of Columbia health care insurance market and consumers.

The Department looks forward to working with the Committee to ensure that consumers of health care insurance have access to important, and often times, life-saving specialty drugs. Thank you again for the opportunity to testify today. I am happy to answer any questions you may have.